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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/843,766	04/30/2001	Jacob McGuire	033048-064	9191

21839 7590 08/23/2004

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EXAMINER

CHANKONG, DOHM

ART UNIT	PAPER NUMBER
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2152

DATE MAILED: 08/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/843,766

Applicant(s)

MCGUIRE, JACOB

Examiner

Dohm Chankong

Art Unit

2152

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

- 1> Claims 1-14 are presented for examination.

***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

1. Claim 1-14 ['766 application] are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-23 of copending Application No. 09/843815 ['815 application]. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1-14 pertain to the same subject matter as the claims of the '815 application with only minor and obvious variations. Claim 1 is shown merely as an exemplary example. Both claim 1 of the '766 application and claims 1, 9 and 11 of the '815 application pertain to a system for the automatic configuration of a plurality of different network devices. Specifically, both systems utilize a library of generic commands to be translated within an interface to be compatible with a specific device.

Art Unit: 2152

Both claim 1 of the '766 application and claim 9 mentioned in the '815 application pertain exactly to a memory, database and interface that have the same functionality and design [i.e. memory to store template and commands, database storing network addresses and interface for templates].

Therefore, claim 1 of the '766 application is merely an obvious variation of claims 1, 9 and 11 of the '815 application and therefore, claim 1 of the '374 application is invalid.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

***Claim Rejections - 35 USC § 102***

2> The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Art Unit: 2152

3> Claims 1, 3-6, 8 and 10-13 are rejected under 35 U.S.C 102(e) as being anticipated by Belknap et al, U.S Patent No. 6,516,356 ["Belknap"].

4> As to claim 1, Belknap discloses a system for automatically deploying a plurality of network devices, comprising:

a memory storing a template which contains a sequence of commands for configuring each of a plurality of devices of a given type, wherein each command that refers to a particular device contains a variable as the identification of the device [column 2 <line 65> to column 3 <line 25>] ;

a database storing a record which indicates the respective network address of each specific device for which a given device is to be configured [Figure 2 <items 50 and 55> | column 1 <lines 45-57> | column 5 <lines 42-51> where: since high-level command processor directs commands to the respective media devices using the target information from the requesting application, it is equivalent in functionality to the database]; and

an interface responsive to a command and to configure a given device for retrieving said template and the stored record associated with said given device, substituting the network addresses in the retrieved record for the variables in said template, and issuing commands to configure the given device in accordance with said retrieved record and said template [Figure 1 <items 15,22,25> | Figure 2 <items 65,70,75> | column 1 <lines 58-65> | column 2 <line 52> to column 3 <line 33> | column 5 <lines 42-59> | column 6 <lines 30-45>].

Art Unit: 2152

5> As to claim 3, Belknap discloses the system of claim wherein a plurality of templates are stored in said memory, each corresponding to a different respective type of service [Figure 1 <item 15> | column 3 <lines 5-22>].

6> As to claim 4, Belknap discloses the system of claim 3 wherein said templates are stored in said database [Figure 1 <items 5, 15> | column 3 <lines 20-25> where: the media manager stores the modules (templates)].

7> As to claim 5, Belknap discloses the system of claim 1 wherein said interface issues said commands in a format generic to a plurality of different types of devices, and further including a library containing converters for converting said generic commands into device-specific commands to be applied to individual network devices [column 5 <lines 42-59> | column 6 <lines 18-41>].

8> As to claim 6, Belknap discloses the system of claim 5 wherein said converters transmit each of said device-specific commands in accordance with a transmission protocol corresponding to the individual devices, respectively [Figure 1 <items 20,22> | column 5 <lines 31-41>].

9> Claim 8 is a method that claims the steps performed by the system of claim 1. Therefore, claim 8 is rejected for the same reasons as set forth in above paragraph 4 for claim 1.

Art Unit: 2152

10> Claim 10 is a method that claims the steps performed by the system of claim 3. Therefore, claim 10 is rejected for the same reasons as set forth in above paragraph 5 for claim 3.

11> Claim 11 is a method that claims the steps performed by the system of claim 4. Therefore, claim 11 is rejected for the same reasons as set forth in above paragraph 6 for claim 4.

12> Claim 12 is a method that claims the steps performed by the system of claim 5. Therefore, claim 12 is rejected for the same reasons as set forth in above paragraph 7 for claim 5.

13> Claim 13 is a method that claims the steps performed by the system of claim 6. Therefore, claim 13 is rejected for the same reasons as set forth in above paragraph 8 for claim 6.

***Claim Rejections - 35 USC § 103***

14> The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.



Art Unit: 2152

15> Claims 2 and 9 are rejected under 35 U.S.C 103(a) as being unpatentable over Belknap in view of an Official Notice.

16> As to claim 2, Belknap discloses the system substantially as claimed in claim 1. Belknap does not specifically teach the network addresses comprise Internet Protocol (IP) addresses. However, "Official Notice" is taken that both the concept and advantages of providing for IP address is well known and expected in the art. It would have been obvious to a person of ordinary skill in the art include Internet protocol address of device in Belknap's system because doing so would improve the functionality of the system by allowing configuring devices through Internet. One of ordinary skill in the art would have been motivated to modify Belknap's system with Internet protocol to improve the functionality of the system by increasing compatibility with current Internet and network standards.

17> Claim 9 is a method that claims the steps performed by the system of claim 2. Therefore, claim 9 is rejected for the same reasons as set forth in above paragraph 16 for claim 2.

18> Claims 7 and 14 are rejected under 35 U.S.C 103(a) as being unpatentable over Belknap in view of McNeely et al, U.S Patent Application Publication US 2002/0162059 A1 ["McNeely"].

Art Unit: 2152

19> As to claim 7, Belknap discloses the system substantially as claimed in claim 1. Belknap does not specifically disclose that one of said transmission protocols comprises Telnet.

20> McNeely teaches a system for automatic configuration of a plurality of network devices wherein communication with said network devices is done in accordance with a Telnet transmission protocol [abstract | paragraph 65 | paragraph 84]. It would have been obvious to a person of ordinary skill in the art include telnet in Belknap's system because doing so would increase the number of devices that with which Belknap's media manager could communicate. One would have been motivated to do this to allow Belknap's system to include network devices that could be accessed by remote terminal access.

21> Claim 14 is a method that claims the steps performed by the system of claim 7. Therefore, claim 14 is rejected for the same reasons as set forth in above paragraphs 19 and 20 for claim 7.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S Patent No. 6,256,678 to Traughber et al [generic communications interface between disparate network programs across a communications network];

Art Unit: 2152

U.S Patent No. 6,275,853 to Beser et al [network management system using generic objects to communicate with unknown network devices]; and


U.S Pub No: 2002/0128815 A1 to Merchant et al [automatic configuration of network devices utilizing a high-level language translation to generate device-specific commands].

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dohm Chankong whose telephone number is (703)305-8864. The examiner can normally be reached on 8:00AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (703)305-8498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DC

  
ZARNI MAUNG  
PRIMARY EXAMINER